

United States v. Gary Tanner and Andrew Davenport
Prepared Remarks for U.S. Attorney Preet Bharara
November 17, 2016

Good afternoon. My name is Preet Bharara and I am the United States Attorney for the Southern District of New York.

For some time now, we have been investigating potential corruption and fraud at Valeant, the large pharmaceutical company. Our investigation looked into the different ways Valeant shareholders and the marketplace may have been harmed continues. But, for today, we allege fraud that we unearthed involving Valeant and a company named Philidor, a specialty mail order pharmacy with close ties to Valeant.

Specifically, today we have arrested and charged two men: Gary Tanner, a former senior executive at Valeant; and Andrew Davenport, the founder and CEO of Philidor.

We allege these two men participated in a fraudulent scheme to illegally use Philidor as a vehicle for personal profit and self-dealing.

As alleged, these two men purported to be arms-length business counterparts – Tanner with Valeant, and Davenport with Philidor. But they were, in fact, partners in crime.

The crime allegedly boils down to this:

Tanner was a senior executive at Valeant. As such, he owed all of his duties to Valeant and its shareholders. In violation of those duties, however, Tanner secretly agreed with Davenport to puff up Philidor's business. Why? So that eventually Valeant would pay \$100 million for the right to buy Philidor.

Tanner did not do this out of loyalty to Valeant. He did it because he was expecting to get a secret \$10 million kickback. And as the Complaint alleges, he concealed this criminal self-dealing: he repeatedly lied, claiming he had no personal financial interest in Philidor, when he in fact had a huge interest.

Before I go into more detail, let me thank some folks.

Cases like this, involving corporate deception and secret kickbacks, are not easy to make. They require persistence, tenacity and a lot of hard work. And that's what we had here.

I am joined today by our partners in this and in so many other important cases, the FBI, led by William Sweeney, the Assistant Director-in-Charge of the New York Field Office. I want to thank Bill and his team - specifically FBI Special Agents Ryan Redel, Michael Preis, Wayne Boddy, and Tom McDonald - for their incredibly hard work and dedication.

I also want to thank and acknowledge the career prosecutors from my office. They are Howard Master, Ian McGinley, Robert Allen, and Richard Cooper, the AUSAs handling the prosecution, and supervisors in our Securities and Commodities Unit, Tim Kasulis, and in our Complex Frauds and Cybercrime Unit, Paul Krieger and Edward Kim.

Let me describe the alleged criminal scheme in some more detail:

In January 2013, Tanner worked with Davenport to help set up Philidor, a specialty pharmacy whose principal business was to sell drugs manufactured by Valeant. As I mentioned, Tanner worked with Davenport to build up Philidor, sometimes at the expense of Valeant.

For example, although Tanner was directed to diversify Valeant's relationships with multiple specialty pharmacies, he instead pushed hundreds of millions of dollars of Valeant business exclusively to Philidor. And as we intend to prove, he did it for the eventual \$10 million kickback.

Here's how the kickback worked: in 2014, just a year after Philidor was created, Tanner pushed for, and succeeded in getting, Valeant to agree to an option to buy Philidor for \$100 million and other payments.

Under the contract, as Philidor's principal shareholder, Davenport was to receive \$40 million.

But what was hidden was that Tanner would get \$10 million of Davenport's share, kicked back to him.

They had, in effect, illegally converted Valeant shareholder money into their own personal nest eggs.

The Complaint also alleges evidence in support of the defendants' deceit, concealment, and criminal intent:

For example, Tanner repeatedly refused to disclose his huge financial interest in Philidor even after his supervisors at Valeant became concerned and confronted him with it.

As another example, in discussing their scheme, Tanner and Davenport took care not to use Tanner's official Valeant email account, instead creating a Philidor account for Tanner under a fake name, Brian Wilson.

They also secretly prepared for the flow of kickback payments. How? Tanner and Davenport created shell companies in Delaware to transfer their money, including the kickback payments to Tanner. And on the day the option agreement was signed, Davenport set up a bank account for an aptly-named shell company "End Game LLC."

As further described, both Davenport and Tanner were quick to spend the money on themselves. Just days after the first alleged kickback payments came into his shell company, Tanner wired \$6.5 million to pay for personal expenses and investments – credit card and restaurant bills and put \$2 million into his retirement account.

Davenport also allegedly used the payout to buy \$20 million in securities in his brokerage account, purchase another home, and install a \$50,000 custom wine cellar.

This diagram shows how the money flowed from Valeant to Philidor, ultimately to Davenport and Tanner.

In one of the secret email exchanges described in the complaint, Tanner and Davenport joked about “rid[ing] into the sunset” together like “Butch” and the “Sundance” Kid. In their own words, to ride into the sunset, they just needed to “keep playing the game.”

As of today, the game is up. They will not be riding into the sunset to live in luxury off the spoils of their scheme. Rather, Tanner and Davenport now will face federal wire fraud and money laundering charges.